

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4093 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No.

SIDDHARTH VIKRAMBHAI SHAH

Versus

CHAIRMAN

Appearance:

MR HS MUNSHAW for Petitioner
MR AD OZA for Respondent

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 04/08/1999

ORAL JUDGEMENT

Rule. Mr. A.D. Oza waives service of Rule on behalf of the respondent. The petitioner in this case is a student of 10th standard, whose result is cancelled in view of unfair means committed in the paper of Mathematics of 10th standard examination held in March, 1999, on the allegation that he had handed over his answer book after the scheduled time of the examination

paper was over. He has contested the factual position and in support of his claim, he has also placed reliance on an affidavit of another examinee Mr. Chirag Nikunj Parikh, aged 15 years. This affidavit dated 13th June, 1999, has been filed along with the petition in this Court. No such case was projected by the petitioner before the Examination Committee. The contention raised by the petitioner before the Examination Committee was that he had handed over the answer book in time. This version of the petitioner does not tally with the case which has been given out in the affidavit of Chirag Nikunjkumar Parikh because this student says that it is he who had taken the answer book from the desk of the supervisor when the examination was over. He says that he had also left the examination hall along with the other examinees, but later on when he came back to verify that nothing is left on his seat, he found that the answer book was lying on the table of the supervisor and he handed it over to the member of squad as the concerned supervisor was not available. Mr. Oza has pointed out that the petitioner had also admitted that the answer book was given late by the concerned examinee himself because he took some time to tie up his shoes. On this aspect of the matter, the Board has also invited the attention of this Court to the Rojkam which was prepared on that day to show that the answer book was given after the scheduled time was over.

2. Besides this, it has also been stated in the Board's reply that in the later part of the answer book there are different handwriting and the time was consumed in doing this answer subsequently after the scheduled time.

3. However, I find that in the notice dated 9-4-99 which was given to the petitioner for taking action against him for unfair means, the allegation of different handwriting in the answer book is not there.

4. In the facts and circumstances of the case, the matter is remanded back to the Examination Committee of the Board. The Board may give a notice afresh to the petitioner incorporating all the allegations in detail and may pass an order afresh in accordance with law after affording a reasonable opportunity and the personal hearing to the petitioner before the Examination Committee. In the facts and circumstances of the case it is also directed that the Board will complete the exercise afresh within a period of two weeks from the date the copy of this order is produced before the Board authorities. Rule is made absolute in the terms as

aforesaid. Direct service permitted.

04-08-99 (M.R.Calla,J.)

*mithabhai